

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Tim Magik,

Complainants,

vs.

Scott R. Bromley,

Respondent.

**NOTICE OF DETERMINATION OF  
PRIMA FACIE VIOLATION  
AND  
NOTICE OF AND ORDER FOR  
PROBABLE CAUSE HEARING**

**TO: Tim Magik and Scott R. Bromley.**

On October 31, 2012 Tim Magik filed a Campaign Complaint with the Office of Administrative Hearings alleging that Scott R. Bromley violated three statutes — Minnesota Statutes § 10A.09, by failing to include all required information on his statement of economic interest; Minnesota Statutes § 211A.02, by failing to file accurate and complete campaign financial reports; and Minnesota Statutes § 211B.15, by causing a corporation in which he has an ownership interest to make a prohibited contribution.

After reviewing the Complaint and attached exhibits, the undersigned Administrative Law Judge has determined that the Office of Administrative Hearings lacks jurisdiction over the alleged violations of Minnesota Statutes § 10A.09, but that the Complaint does set forth *prima facie* violations Minnesota Statutes §§ 211A.02 and 211B.15.

**THEREFORE, IT IS ORDERED AND NOTICE IS GIVEN**

(1) That the claims filed by Tim Magik against Scott R. Bromley alleging violations of Minnesota Statutes §10A.09 are **DISMISSED** for lack of jurisdiction; and

(2) That this matter hereby is scheduled for a probable cause hearing on the alleged violations of Minnesota Statutes §§ 211A.02 and 211B.15, to be held by telephone before the undersigned Administrative Law Judge at **10:00 a.m. on Thursday, November 8, 2012.** The hearing will be held by call-in telephone conference. You must call: **1-888-742-5095** at that time. When the system asks for your numeric pass code, enter **685-684-1864#** on your phone and you will be connected to the conference. The probable cause hearing will be conducted pursuant to Minnesota Statutes § 211B.34. Information about the probable cause proceedings and copies of state statutes may be found online at [www.oah.state.mn.us](http://www.oah.state.mn.us) and [www.revisor.leg.state.mn.us](http://www.revisor.leg.state.mn.us).

At the probable cause hearing all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if that choice is not

otherwise prohibited as the unauthorized practice of law. In addition, the parties have the right to submit evidence, affidavits, documentation and argument for consideration by the Administrative Law Judge. Parties should provide to the Administrative Law Judge all evidence bearing on the case, with copies to the opposing party, before the telephone conference takes place. Documents may be emailed to Judge Johnson at [Bruce.Johnson@state.mn.us](mailto:Bruce.Johnson@state.mn.us) or faxed to 651-361-7936.

At the conclusion of the probable cause hearing, the Administrative Law Judge will either: (1) dismiss the complaint based on a determination that the complaint is frivolous, or that there is no probable cause to believe that the violation of law alleged in the complaint has occurred; or (2) determine that there is probable cause to believe that the violations of law alleged in the complaint have occurred and refer the case to the Chief Administrative Law Judge for the scheduling of an evidentiary hearing. Evidentiary hearings are conducted pursuant to Minnesota Statutes § 211B.35. If the Administrative Law Judge dismisses the complaint, the complainant has the right to seek reconsideration of the decision on the record by the Chief Administrative Law Judge pursuant to Minnesota Statutes § 211B.34, subdivision 3.

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Administrative Law Judge must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at P.O. Box 64620, St. Paul, MN 55164-0620, or call 651-361-7900 (voice) or 651-361-7878 (TDD).

Dated: November 5, 2012

s/Bruce H. Johnson  
BRUCE H. JOHNSON  
Administrative Law Judge

## MEMORANDUM

Tim Magik ("Complainant") and Scott R. Bromley ("Respondent") are both residents of Coon Rapids. The Respondent is a candidate in the upcoming general election for the office of Anoka County Commissioner. The Complaint first alleges that the Respondent violated Minn. Stat. § 10A.09 by failing to include required information on the Statement of Economic Interest that the Respondent filed with the Campaign Finance and Public Disclosure Board. However, the jurisdiction of Office of Administrative Hearings ("OAH") is limited to matters that the Legislature has specifically designated in a statute. Minnesota Statute § 211B.32, subd. 1, only gives

the OAH jurisdiction to adjudicate alleged violations of Minnesota Statutes Chapter 211A or 211B. It does not give OAH jurisdiction to hear and adjudicate claims arising under any other chapters of Minnesota Statutes, including Minnesota Statutes Chapter 10A. The OAH therefore lacks jurisdiction over any such claims raised in the Complaint.

Minnesota Statutes § 211A.02, subdivision 1, requires candidates who receive contributions or make disbursements of more than \$750 in a calendar year to file campaign financial reports listing, among other things, the total amount of receipts and expenditures made during the period of time covered by the report. The Complainant attached to the Complaint copies of two reports filed by the Respondent covering the time periods from August 3, 2012, through October 25, 2012.

The Respondent's August 3, 2012, report states that he made expenditures for campaign signs and for post cards which he sent to prospective voters, but the report does not list the amount of those expenditures. The Complaint alleges that the Respondent obtained 800 printed campaign signs and several hundred printed post cards, the costs of which are unknown, and that he also spent between \$3,500 and \$4,380 on postage for the post cards. The Complaint then alleges that the Respondent violated Minnesota Statutes §§ 211A.02 by failing to list the amounts of those expenditures on that report.

Additionally, the Complaint alleges that the Respondent failed to list contributions that he necessarily must have received in order to make \$1,192.25 in expenditures that he reported on his August 3, 2012 report. Additionally, the Complaint alleges that the Respondent failed to list all of the contributions he necessarily must have received in order to make the \$3,154.83 in expenditures that the Respondent reported on his October 25, 2012 report. The Complaint then alleges that the Respondent violated Minnesota Statutes § 211A.02 by failing to list the amounts of contributions that he had received on that report.

Finally, Minnesota Statutes § 211B.15, subdivisions 2 and 3, prohibit corporate contributions to candidates, including in-kind contributions, that do not qualify as independent expenditures. The Respondent's August 3, 2012 finance report indicates that the Respondent, as a candidate for Anoka County Commissioner, received printing services from Bromley Printing. The Respondent's Statement of Economic Interest indicates that he serves as Vice President of Marketing for Bromley Printing. The Complaint therefore alleges that the Respondent caused Bromley Printing to make in-kind corporate contributions prohibited by Minnesota Statutes § 211B.15, subdivisions 2 and 3.

In order to set forth a *prima facie* case of violations of Minnesota Statutes Chapters 211A and 211B, a complainant must either submit evidence or allege facts that, if unchallenged or accepted as true, would be sufficient to prove a violation of

either or both of those two chapters.<sup>1</sup> For purposes of a *prima facie* determination, the tribunal must accept the facts alleged as true. The allegations do not need independent substantiation.<sup>2</sup> A complaint must be dismissed if it does not include evidence or allege facts that, if accepted as true, would be sufficient to prove violations of chapter 211A or 211B occurred.<sup>3</sup> The Administrative Law Judge finds that the Complainant has alleged sufficient facts to support finding a *prima facie* violations of Minnesota Statutes §§ 211A.02 and 211B.15. Accordingly, the Complainant's allegations will proceed to a probable cause hearing as ordered.

**B.H.J.**

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<sup>1</sup> *Barry, et al., v. St. Anthony-New Brighton Independent School District, et al.*, 781 N.W.2d 898, 902 (Minn. App. 2010).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*